

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 98-199

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. In s. NR 252.03 (1), it appears that in the last sentence the reference to “all sections except ss. NR 252.30 through 252.36” should be changed to refer only to s. NR 252.30. Sections NR 252.31 to 252.36 set forth effluent limitations and pretreatment standards; they do not refer to the types of operations occurring in certain plants.

b. Section NR 252.035 (4) (b) requires that before performing any analyses, an analyst must “demonstrate the ability to generate acceptable precision and accuracy.” It is unclear how compliance with this requirement is to be demonstrated. Must records of the operations that are performed by the analyst under this paragraph be provided to the department? Must such records be maintained by the laboratory? By what process will the department insure that analysts have the ability to conduct analyses?

c. In the first sentence of s. NR 252.040 (4) (a), it appears that “establish and” should be inserted before “operate.”

d. It appears that the third sentence of NR 252.045 (2) (a) is unnecessary because the procedure which must be used is set forth in sub. (3).

e. The material set forth after the colon in s. NR 252.045 (3) (a) should be set forth in separate subdivisions. In addition, it appears that the second occurrence of the number 5 in that

paragraph should be deleted and the second to the last sentence in that paragraph is unnecessary and should be deleted.

f. In s. NR 252.045 (3) (d) 2., it is unclear whether an analyst is required to evaluate the data by the method that is set forth. This subdivision should be rewritten to clearly specify what actions are required. In addition, it appears that the information contained in the first three sentences of that subdivision is merely descriptive and should be deleted.

g. Section NR 252.11 refers to any “existing” point source. The use of “existing” is confusing. Is use of that word intended to limit the application of s. NR 252.11 to those point sources which existed at the time the rule was promulgated? This term should be replaced with more specific explanation of the applicability of s. NR 252.11. [See s. 1.01 (9) (b) Manual.] This comment also applies to ss. NR 252.15, 252.31, 252.35, 252.41, 252.51, 252.61, 252.65, 252.71, 252.85, 252.91 and 252.95.

h. It is unclear whether an analyst must carry out any of the procedures set forth in s. NR 252.045 (3) (g). That paragraph should be rewritten to specify which procedures must be carried out.

i. The treatment of ss. NR 252.040, 252.045 and 252.04 are out of sequence. Further, a new number should be assigned to s. NR 252.040 if the numbering of s. NR 252.04 is to be retained.

4. Adequacy of References to Related Statutes, Rules and Forms

a. In s. NR 252.035 (4) (b) 2. a., the reference “par. (b) 2. b. below” should be replaced by a reference to “subd. 2. b.”

b. It appears that the references to “7b” and “7c,” in s. NR 252.045 (3) (g) 5. and 6. are incorrect.

c. In the first sentence of s. NR 252.04 (4) (a), it appears that the reference to “this section” should be replaced with a cross-reference to the provision in the federal regulations which sets forth the standards for determining the applicability of sulfide pretreatment standards to a facility. In par. (c), each occurrence of the phrase “of this section” should be deleted.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. NR 252.035, it appears that “and” should be inserted after “1965.”

b. How long must the performance records referred to in s. NR 252.040 (4) (a) be maintained by a laboratory? In addition, it is unclear to which operations the requirement to maintain performance records applies.

c. In s. NR 252.040 (4) (b), it is unclear whether an analyst must carry out the demonstration of ability before performing any type of analysis for the first time or whether an

analyst must carry out the demonstration of ability each time he or she performs any type of analysis. This point should be clarified.

d. The second sentence in s. NR 252.045 (3) (c) 3. is incomplete. In addition, what is the purpose of the colon at the end of that sentence?

e. To whom does the term “students,” in s. NR 252.045 (3) (f) 1. refer?

f. Is the term “spooled,” used in s. NR 252.045 (3) (g) 5. correct?

g. It appears that the first sentence in s. NR 252.04 (4) (a) should be reviewed and rewritten. In addition, how is it determined if changed circumstances justify application of the sulfide pretreatment standards to a facility that was previously exempt?

h. In s. NR 252.04 (4) (b), should “indirect discharger” be replaced with “specified facility”?